

JUL 29 1982

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

PATRICIA THOMPSON,
EDDIE THOMPSON, JR.,

Petitioners-Plaintiffs,

vs.

78-57 81-5784

RICHARD NELSON,

and

79-40 81-5785

PEOPLES LIBERTY BANK; CARSON FURNITURE;
GEORGE WERMELING; RALPH HAILE; JUDY
GUFFEY; RICHARD NELSON; RICHARD SLUKICH;
THOMAS A. EPPERSON; JAMES TUCKER; TODD
A. FINAN; JAMES LILES; BERNARD SMITH;
HENRY WARDEN; UNNAMED POLICE OFFICERS;
UNNAMED EMPLOYEES OF CARSON FURNITURE,

and

78-70 81-5786

RICHARD SLUKICH; PEOPLES LIBERTY BANK;
RALPH HAILE; RICHARD NELSON,

Respondents-Defendants.

**BRIEF IN OPPOSITION TO
PETITION FOR WRIT OF CERTIORARI**

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STATEMENT OF THE CASE

This statement of the facts of the case pertains to three police officers of the City of Covington, Epperson, Finan, and Tucker, who were sued by Thompson for excessive use of force in making an arrest, and to George Wermeling, former Mayor of the City of Covington, and Henry Warden, a Covington police officer, who were alleged to have conspired against Thompsons to deprive them of real and personal property without due process of law.

The case against Epperson, Finan, and Tucker was tried by a jury, which returned a verdict in their favor. The case against Wermeling and Warden was dismissed by the granting of a Summary Judgment in their favor after the Thompsons failed to present any facts to support the conclusory allegations of the pleadings.

The petitioners statement of the facts of the case is an example of what the attorneys, the trial court, and the appellate court have had to face from the inception of this case, a mixture of fact and fiction, truth and illusion, evidence and allegation. The Sixth Circuit Court of Appeals defined the issues as follows:

(a) the verdict against Thompson in the jury trial against Finan, Epperson, and Tucker was not supported by the evidence;

(b) the bank officicers should have been joined with the police officers in the jury trial;

(c) the trial court failed to instruct the jury properly;

(d) opposing counsel made impermissible statements to the jury; and,

(e) the summary judgment in favor of Wermeling and Finan was unprovidently granted.

The Sixth Circuit Court of Appeals found no merit in these arguments.

ISSUES

The Thompsons have enumerated two issues or "reasons for granting the writ" which are irrelevant as written and then have catalogued many alleged issues which should reduce to those issues stated by the Sixth Circuit Court of Appeals, "Exhibit A, *Petition for Writ*", which are:

- (a) the verdict against Epperson, Finan, and Tucker was not supported by the evidence;
- (b) the bank officials should have been joined with the police officers, Finan, Tucker and Epperson;
- (c) the trial court failed to properly instruct the jury;
- (d) opposing counsel made impermissible statements.

ARGUMENT

Petitioners request that the Supreme Court review and reassess the facts of the case upon which the Sixth Circuit based its decision. They claim the decision to be unacceptable and such a departure from the usual course of judicial proceedings that the Supreme Court should exercise its powers of supervision.

The Sixth Circuit Court of Appeals rejected the Thompsons' arguments pertaining to the use of excessive force as being without merit. Exhibit A, page 2a, *Petition for a Writ*. The trial judge rejected the motion of Thompson for a judgment notwithstanding the verdict with this comment,

"It is clear to this Court that the evidence overwhelmingly supported the verdict of the jury." Exhibit J, page 17a, *Petition for a Writ*.

Thompson's argument consists of conclusory allegations and re-argument of his case tried before the jury. It pre-

sents no issues worthy of consideration by this court. Furthermore it verges on libel, contains many allegations of fact not found in the evidence, and may even be perjurious. For example, Eddie Thompson, Jr. in an affidavit included in his Petition for a Writ of Certiorari, pages numbered Roman Numerals X and XI, makes several factual claims unsupported by the evidence and, to this writer's knowledge, untrue.

A jury has returned a verdict that Officers Finan, Tucker, and Epperson did not use excessive force in arresting a drunken Eddie Thompson. Thompson's efforts before the Supreme Court of the United States to re-argue the case on the merits should fail. He presents no legal reasons why the jury verdict should be overturned.

The District Court was not in error in granting George Wermeling and Henry Warden summary judgments dismissing all of the Thompsons' claims against them. The Thompsons wove a fantastic tale of conspiracy involving Northern Kentucky banks, police officers, judges and lawyers to deprive them of property without due process of law. In response to the defendants' motions for summary judgment, the Thompsons were unable to present any specific facts to support these claims of conspiracy except the conclusory allegations of their pleadings. Relying on *R. E. Cruise, Incorporated v. Bruggeman*, 508 F.2d 415 (6th Cir. 1975) and Rule 56 (e), Federal Rules of Civil Procedure, the Sixth Circuit Court of Appeals correctly dismissed the Complaint. (Petition for a Writ, Exhibit A, pages 1a-3a).

CONCLUSION

The Petition and the Record do not show that there are any reasons for this Court to issue a Writ of Certiorari.

Respectfully submitted,

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